

**Remarks**

The Office Action of February 1, 2010, has been carefully considered.

It is noted that Claims 1, 3 – 7, and 9 – 11, are rejected under 35 U.S.C. 102(b) over the patent to Yee.

It is further noted that Claims 8, 12, and 15 would be allowable if re-written in independent form.

In view of the Examiner's rejection of the claims, applicant has amended independent Claim 1. Support for the changes can be found in Figures 1 and 2, as well as in the originally-filed specification on page 2, lines 1 – 3, and 16 – 25, and page 6, line 21, through page 7, line 2.

It is respectfully submitted that the claims now on file differ essentially and in an unobvious, highly-advantageous manner from the constructions disclosed in the reference.

Turning now to the reference, as has been previously described, Yee discloses an adjustable guard arrangement for a power tool. Yee does not disclose a grinding tool that can be slid or rolled in a stable manner along the edge of the workpiece, as in the presently-claimed invention.

Applicant disagrees with the Examiner's position that the guard member 40 of Yee is suitable for guiding the tool of Yee during operation. Such guards are made of thin metal and are not suitable for absorbing larger forces which are encountered when supporting a grinding tool without breaking or bending. Furthermore, the guard member 40 of Yee does not have a sufficiently large support surface to provide guidance. Correspondingly, the guard of Yee does not provide any improved control during grinding. For guidance, the edge of the guard would have to be used. A person skilled in the art would readily understand that by sliding of the guard on its edges along the workpiece, there is the risk that the workpiece tilts and becomes jammed. This would further result in a high risk of injury to the user so that one skilled in the art would not use the guard of Yee in the manner suggested by the Examiner.

The guard 40 has a hood member 42 made of metal and a ring 44, as well as a spacer 48 made of plastic, which spacer is connected co-axially with the hood member by screws. For fastening the guard member 40 on the grinding tool, the spacer 48 is slid onto a hub 48 of the grinding machine, and is held there only by the projections 52 of the hub 48, as well as by a spring 62. If the grinding machine were pressed against the workpiece with a sufficient force to provide tipping-stable guidance, proportionately large forces would be exerted on the hood member 42, in particular when the grinding tool is supported at the outer edge of the hood member. The guard member 40 and the hood member 42 made of thin metal, together with the fastening mechanism to the grinding tool, are not suited for absorbing the pressing forces encountered during grinding, and would, as a result, easily bend or break. There is absolutely no suggestion to one skilled in the art that the guard member 40 could in any way be used as a guide, as recited in the presently-claimed invention.

Claim 1 further recites that the tool can be pressed in at least three bearing points against the workpiece so that the tool is stable in two directions, and can be slid or rolled along the workpiece edge. There is no teaching of this by Yee. Yee does not have gliding surfaces or rollers, and placement of the edge of the guard 40/42 for sliding along the edge of the workpiece, in particular when pressing the guide arrangement against the workpiece, would have a very high risk of tipping.

In addition, the positions by which the guard can be contacted against the workpiece are not sufficiently spaced so as to be stable against tipping. In particular, the distance between the upper and lower sides of the guard is not large enough. Normally, this is no more than an inch or so. Thus, there is no disclosure by Yee of a guide device that can be pressed in at least three bearing points against the workpiece so that the tool is stable in two directions, as in the presently-claimed invention.

Applicant has enclosed Attachments 1 – 3, which are copies of Figures 2 and 5 of Yee to demonstrate that Yee does not teach a construction which the tool can be pressed in at least three bearing points against the workpiece so that the tool is stable in two directions.

As shown in Figures I and II, when the grinding plate 12 is moved parallel to an edge to be worked, the guard 40 can only rest against the edge of the workpiece at the outer edge of the guard 40, as shown with position A. Even when the edge of the guard is parallel to one of the sides of the workpiece, there are only two bearing points, and thus, a non-tipping, stable position is only provided in one direction.

Also, when the grinding tool is placed with the grinding disc perpendicular to the edge of the workpiece (as shown in Figures III - VI), the guard 40 during grinding along the edge cannot simultaneously be pressed against the workpiece at three bearing points. As particularly shown in Figure VI, the grinding machine, for grinding along an edge, must be held in a tilted direction so that the grinding surface of the grinding plate 12 is arranged at a known angle to the edge of the workpiece. A grinding along the edge would otherwise not be possible, since the grinding plate would jam.

As soon as the grinding machine is tipped around the edge of the workpiece, the guard 40 can only be pressed into the positions A or A' as shown in Figure V, namely with a single contact point.

Thus, it is not possible, with the grinding machine of Yee, to have the tool press against the workpiece at three bearing points simultaneously, so that the tool is stable against tipping in two directions, as is recited in the presently-claimed invention.

In view of these considerations, it is respectfully submitted that the rejection of Claims 1, 3 – 7, and 9 – 11, under 35 U.S.C. 102(b) over the above-discussed reference, is overcome and should be withdrawn.

Reconsideration and allowance of the present application are respectfully requested.

**Fees**

Other than the \$245 fee for the two-month extension of time, no additional fees are believed to be due. However, if any fee is determined to be due, authorization is hereby given to charge the fee to Deposit Account No. 02-2275. Pursuant to 37 C.F.R. 1.136(a)(3), please treat this and any concurrent or future reply in this application that requires a petition for an extension of time for its timely submission as incorporating a petition for extension of time for the appropriate length of time. The fee associated therewith is to be charged to Deposit Account No. 02-2275.

Respectfully submitted

LUCAS & MERCANTI, LLP

By:

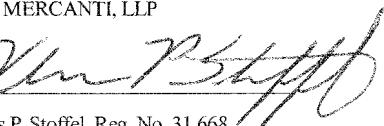
  
Klaus P. Stoffel, Reg. No. 31,668  
475 Park Avenue South  
New York, New York 10016  
Tel: (212) 661-8000

**CERTIFICATE OF ELECTRONIC TRANSMISSION**

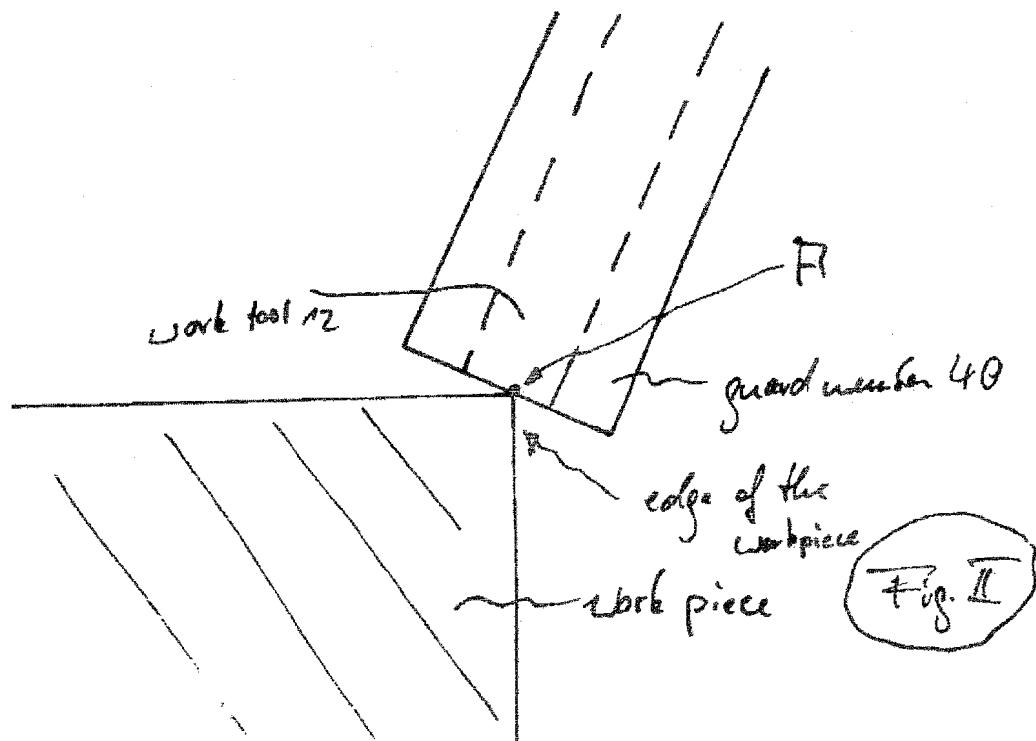
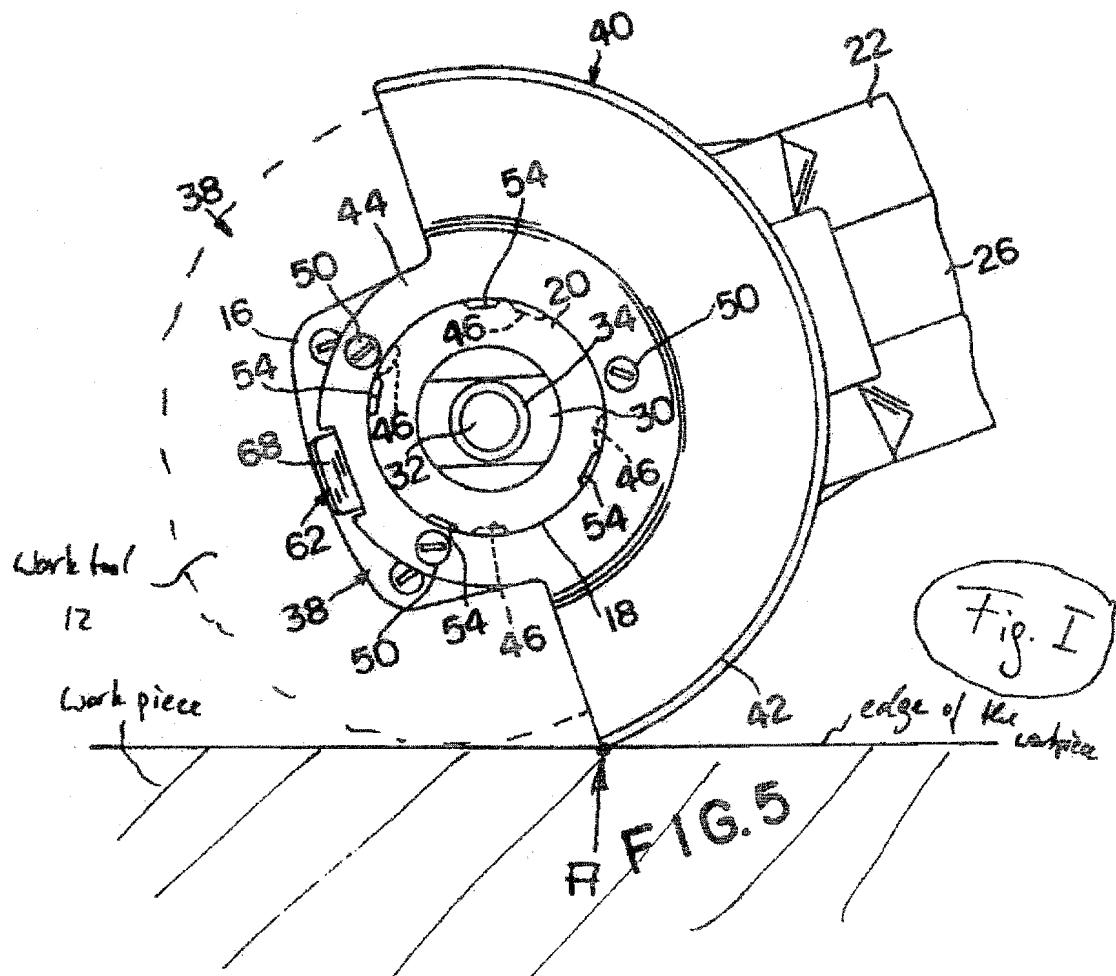
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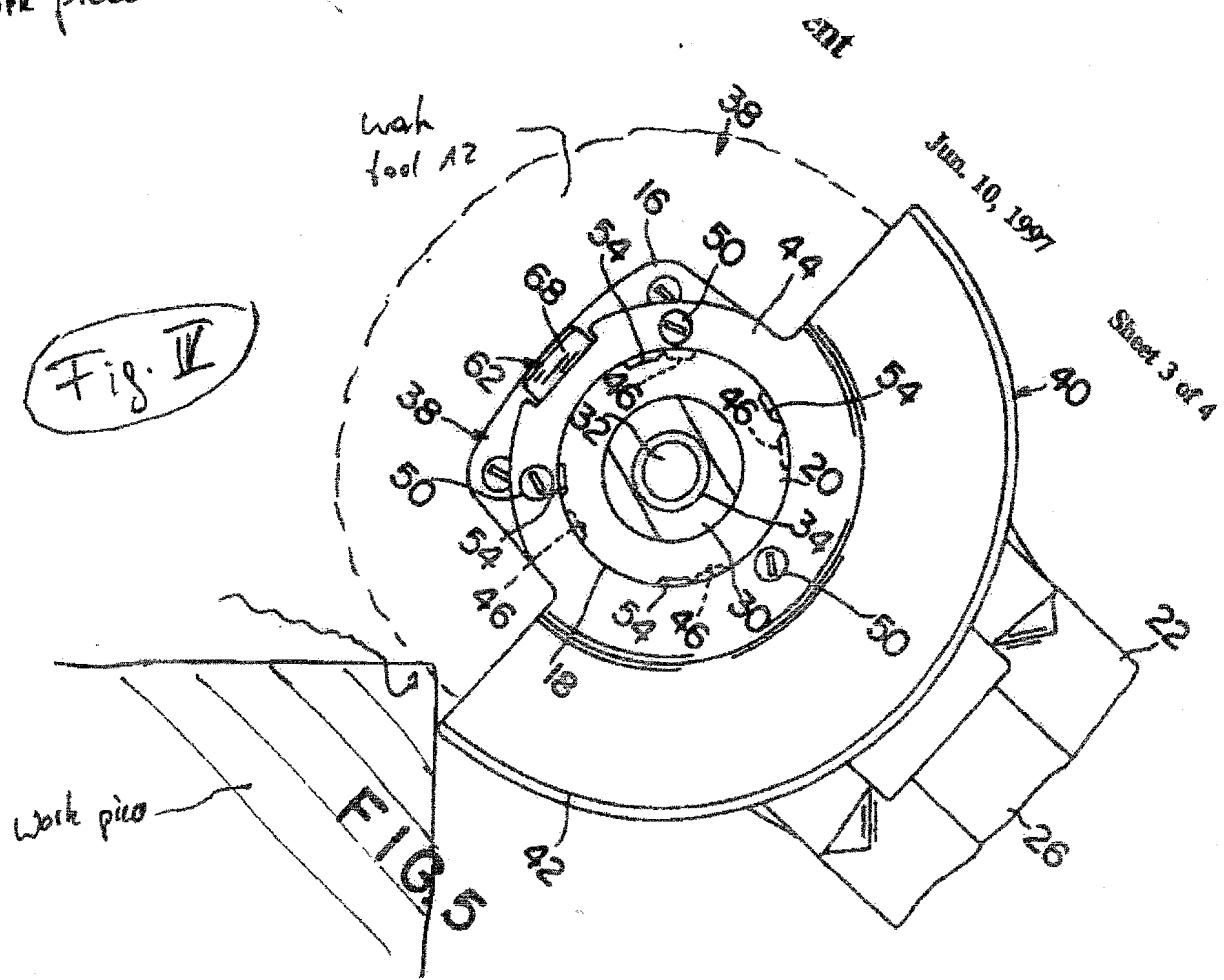
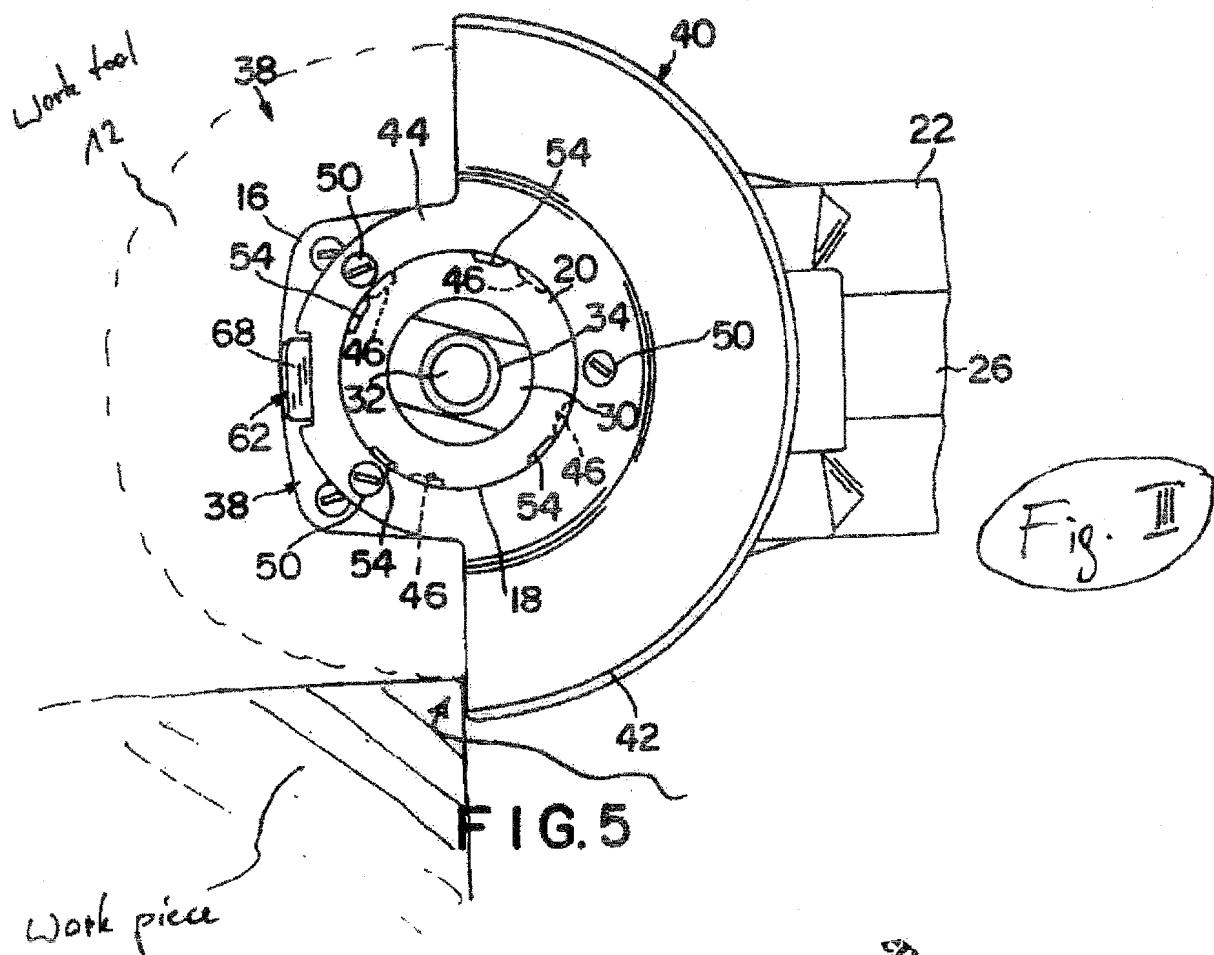
LUCAS & MERCANTI, LLP

By:

  
Klaus P. Stoffel, Reg. No. 31,668

# Attachment 1





### Attachment 3

